

September 5, 2019

Mr. Robert Brittain  
Frederick Ward Associates  
P O Box 727  
5 South Main St.  
Bel Air MD 21014

Re: Orem's Elementary School, 711 High Villa Rd. 21221  
Forest Conservation Variance  
Tracking # 06-19-3048

Dear Mr. Brittain:

A request for a variance from Baltimore County Code Article 33, Title 6 Forest Conservation was received by the Department of Environmental Protection and Sustainability (EPS) on July 25, 2019. This request proposes to base the afforestation required by Section 33-6-111 of the forest conservation law on the 3.8-acre limit of disturbance rather than the entire 15-acre school campus, and to remove 2 of the 16 specimen trees on-site for parking lot improvements and associated stormwater management. The trees proposed for removal include a 32-inch diameter at breast height *Morus rubra* and a 40-inch diameter at breast height *Quercus palustris*. These redevelopment activities include areas of existing impervious surfaces and areas in lawn with scattered trees. There are no proposed impacts to streams, wetlands, or forest buffers.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. This criterion is not applicable to this project given that the facility is publicly owned.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The proposed improvements are required due to unique

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circumstances associated with the Orems Elementary School property and the need to improve parking and traffic flow. Therefore, the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The project involves parking lot improvements on an existing public school campus so the use and essential character of the neighborhood will remain the same. Therefore, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. There are no stream, wetland, or forest buffer impacts associated with this project. Also, there are no impacts to forests. In addition, the project must meet stormwater management requirements. Therefore, granting of the special variance will not adversely affect water quality, and this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. Prior to requesting this variance, no action has taken place on the property that would have required this variance request. Therefore, the fifth criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Title 6, Forest Conservation. Allowing the removal of 2 specimen trees, and allowing the afforestation obligation to be based on the limit of disturbance for improvements to an existing school campus would be consistent with the spirit and intent of the forest conservation law. The parking lot improvements and associated stormwater management requirements have been located to minimize impacts as 14 of the 16 specimen trees on the property are to be retained. Also, there are no proposed impacts to forest and water quality impacts have been minimized in the design of the improvements. Therefore, this criterion has been met.

Based on our review, this Department finds that the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. The 0.6-acre afforestation requirement and the specimen tree mitigation for this project shall be met by purchasing credit at an EPS-approved forest planting bank, or by paying a \$16,924.60 fee-in-lieu to the Baltimore County Forest Conservation Fund. A bank authorization letter is enclosed for your use. Prior to issuance of any permits, the fee shall be paid to EPS, or the

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signed bank letter shall be returned to EPS indicating that retention bank credit has been purchased.

2. A forest conservation plan (FCP) must be submitted and approved by EPS prior to issuance of any permits.
3. This variance approval does not exempt future redevelopment of this site from complying with the Baltimore County forest conservation law. Also, if any specimen tree shown on the plan "to remain" is proposed to be removed, special variance approval or written authorization must first be obtained from the Department of Environmental Protection & Sustainability

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please sign the statement below as the Baltimore County Public School representative and return a signed copy of this letter to this Department prior to grading permit issuance.

If you have any questions regarding this correspondence, please call Paul Dennis at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Director

DVL/pad

I/we agree to the above conditions to bring the referenced Baltimore County Public Schools project into compliance with Baltimore County Code Article 33 Environmental Protection And Sustainability, Title 6. Forest Conservation.

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Baltimore County Public Schools Representative Signature

Date

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Printed Name